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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,034	08/26/2002	Timothy Winston Hibberd	A-71400 461124-	6572
32940	7590	10/16/2007	EXAMINER	
DORSEY & WHITNEY LLP 555 CALIFORNIA STREET, SUITE 1000 SUITE 1000 SAN FRANCISCO, CA 94104			NOBAHAR, ABDULHAKIM	
ART UNIT	PAPER NUMBER			
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/088,034	HIBBERD, TIMOTHY WINSTON
	Examiner Abdulhakim Nobahar	Art Unit 2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 July 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8, 14, 16-23, 25 and 26 is/are rejected.  
 7) Claim(s) 9-13, 15, 24, 27 and 28 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. This communication is in response to applicant's response received on 07/30/2007.
2. Claims 1-28 are pending.
3. Claims 1-6, 11-15 and 18 are amended.
4. Claims 19-28 are new.

***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

1. Applicant's amendments to the specification, drawing and claims are not sufficient to overcome all the objections and rejections under 35 USC § 112. See below for further objections to the specification and drawing number 2 and rejections of claims under 35 USC § 112.
2. Applicant on page 13, lines 10-14 of the remarks argue that "as stated in amended claim 1, the present invention, on the other hand, will allow a verified user to continue to have access, and only applies a rate limit to an apparatus when a user is not verified".

Examiner respectfully disagrees and asserts that the amended claim 1 recites "applying a rate limit for verifying access to said service...until said identification data is received from a user...and verified by said access control system", which is different from the "will allow a verified user to continue to have access, and only applies a rate

limit to an apparatus when a user is not verified". Furthermore, the disclosed system of Guthrie detects too many successive authorization failures (see col. 8, lines 11-12), which corresponds to the recited applying rate limit.

3. Applicant on page 13, lines 15-17 of the remarks argue that "on the other hand, in the present invention it is a particular machine, based on address data or unique identification number, that may be blocked, not a user". This limitation is not recited by any of the claims 1, 14 and 18.

4. Applicant on page 13, lines 18-19 of the remarks argue that "Guthrie et al. does not appear to apply to anonymous users or users seeking to use the same credentials; whereas the present invention is able to deal with both." None of the claims 1, 14 and 18 appear to recite this statement.

5. Examiner, however, in light of the above submission maintains the previous rejections while considering the new claims and the amendments to the claims as follows:

### ***Specification***

The following amendments to the specification should be made in addition to the amendments filed by the applicant on 07/30/2007:

1. A new section titled "Field of the Invention" or "Technical Field" should be added on page 1 after the title of the specification "AN ACCESS CONTROL METHOD". This section should contain a statement of the field of art to which the invention pertains.

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This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention.

2. Instead of applicant's suggestion to insert "BACKGROUND" above the paragraph beginning on page 1, line 15, the title "Background of the Invention" should be inserted after the new section suggested above, titled "Field of the Invention" and above the original second paragraph beginning on page 1, line 6.
3. The title "DESCRIPTION OF DRAWINGS" suggested by the applicant should be replaced by the "Brief Description of the Drawings".
4. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because the current specification does not refer to the Fig. 2. The specification should describe the Fig. 2 in detail with proper reference number to the corresponding sections or blocks of the drawing.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification

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contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

***Drawings***

The drawing number 2 provided by the applicant in response to the previous office action is objected to because the blocks of this drawing do not have reference numbers. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

**Claims 1, 5, 14 and 18** are rejected under 35 U.S.C. 112, **second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 1**, in line 7, recites “applying a rate limit for verifying access...” **claim 14**, in line 3, recites “applying an access rate limit ...” and **claim 18**, in line 3, recites “rate limit access to the server...” which make these claims indefinite, because the nature of the rate limit is not specified in these claims (i.e., what kind of criteria is used as a rate limit).

**Claim 5** is indefinite, because in line 1, recites “said identification data is verified by said user.” This limitation is contrary to the verification procedure described in the specification (see page 4, line 20 through page 5, line 5 and page 5, lines 19-31). According to the verification procedure described in the specification, the access control system sends an identification data to the user after receiving an access request from the user. The user responds to the access control system by sending an identification data. If the sent and received identification data by the access control system correspond to each other then the user is verified and is allowed to access resources on the application server. Thus, the identification data is verified by the access control system not by the user.

Appropriate corrections are required.

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**Claim 14** is indefinite because the need for performing other levels of security beside the execution of the first security level is not stated (i.e. reason is not given in the claim). This claim is also indefinite because the security step “applying an access rate limit...” and the first security level “invoking a first control level...” do not clearly specify the nature of the security schemes and could be any one of the other security levels in the claim. Thus, these two security steps fail to further limit the claim and are redundant.

The following is a quotation of the **first paragraph** of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claim 14** is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The use of an identification data transmitted between a server and user in order to verify the user by the server is essential to the practice of the invention, but not included in the claims. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Sending an identification data to the server by the user after receiving from the server a unique identification data and verification of the received data by the server whether it corresponds to the unique identification data sent to the user apparatus is essential to the invention because that is the only information is used to verify a user and allowing the user to access a service in the claimed invention described in the specification (see specification page 5, lines 19-31).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-8, 16, 17, 19-23, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Guthrie et al (6,161,185; hereinafter Guthrie).**

As per claims 1, 16 and 17, Guthrie discloses an access control method performed by an access control system (see Fig. 5), including:

- receiving an access request for a service from a data processing apparatus (see Fig. 4, step 2);
- sending unique identification data to said apparatus in response to said access request (col. 4, lines 18-19; col. 7, lines 20-26, where the server transmit a challenge having a certain length to the client that corresponds to the recited sending unique identification data to said apparatus); and
- applying a rate limit (col. 8, lines 11-12: detects too many successive authorization failures) for verifying access to said service, using an access request queue (col. 8, lines 11-12: detects too many successive authorization failures in a row, where row is an indication that the request is in a queue), until said identification

data is received from a user of said apparatus and verified by said access control system (see col. 2, lines 19-32; col. 4, lines 29-35; col. 8, lines 7-40).

As per claim 2, Guthrie discloses an access control method as claimed in claim 1, wherein verifying said identification data corresponds to a first level of access control, and said method includes applying at least one additional different level of access control following a predetermined number of failed attempts to verify said identification data by said user of said apparatus (see col. 4, lines 1-13).

As per claim 3, Guthrie discloses an access control method is claimed in claim 2, wherein said identification data is a random unique security code (see col. 4, lines 16-18, where the seed value corresponds to the recited random unique security code; col. 6, lines 57-60) and said apparatus is sent an unique identification number for the apparatus, for sending with subsequent access requests and which expires if the security code is not verified within a predetermined period of time (see, e.g., col. 4, lines 14-28 and 35-41).

As per claim 4, Guthrie discloses an access control method as claimed in claim 1, wherein said identification data is verified by contacting an independent communications device with a known association to said user and said data processing apparatus, and having said user provide said identification data using said device (Figs. 4 & 5, col. 7, lines 10-26).

As per claim 5, Guthrie discloses an access control method as claimed in claim 1, wherein said identification data is verified by said user returning said identification data using an independent communication means having a known association to said user and said data processing apparatus (Figs. 4 & 5, col. 7, lines 10-26, where the user the user 114 is associated with the client apparatus 102).

As per claim 6, Guthrie discloses an access control method as claimed in claim 3, wherein said at least one additional level includes detecting generation of access requests for said service under control of a program instead of under control of said user (see, e.g., col. 1, lines 30-38; col. 4, lines 30-35, where using a random code generator by a user corresponds to the recited access requests for said service under control of a program).

As per claim 7, Guthrie discloses an access control method as claimed in claim 2, wherein said at least one additional level of access control includes sending communication software to said apparatus to receive access requests for said service under an additional communication protocol (see, e.g., col. 5, lines 10-15; col. 5, lines 49-54).

As per claim 8, Guthrie discloses an access control method as claimed in claim 7, wherein said communication software encrypts said access requests

(col. 3, lines 10-12).

As per claim 19, Guthrie discloses an access control method as claimed in claim 4 or 15, wherein said independent device is a telephone of the user (col. 4, lines 65-67).

As per claim 20, Guthrie discloses an access control method as claimed in claim 5, wherein said independent communications means is a telephone of the user (col. 4, lines 65-67).

As per claim 21, Guthrie discloses an access control method as claimed in claim 1, wherein said unique identification data is sent in a graphic format and received from said user in a different format (col. 6, lines 21-27).

As per claim 22, Guthrie discloses an access control method as claimed in claim 6, wherein said detecting includes sending the unique identification data in a graphic format, and requesting a response in a different format (col. 6, lines 21-27).

As per claim 23, Guthrie discloses an access control method as claimed in claim 11, wherein said blocking is at a router level close to said apparatus (col. 15, lines 5-9).

As per claim 25, Guthrie discloses the access control method of claim 1, wherein the step of applying the rate limit for verifying access to said service comprises placing the access request in the access request queue when the rate limit is exceeded (col. 8, lines 11-12: detects too many successive authorization failures in a row, where row is an indication that the request is in a queue. Furthermore, the requests are always in a queue during authentication process until either permitted to access the resources or being denied access).

As per claim 26, Guthrie discloses the access control method of claim 1, wherein the rate limit limits a number of access requests from said data processing apparatus over a period of time, until said user of said apparatus sends said unique identification data, and said unique identification data is verified (col. 8, lines 11-12: detects too many successive authorization failures).

#### ***Allowable Subject Matter***

**Claims 9-13, 15, 24, 27 and 28** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Claims 14 and 18** would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs, set forth in this Office action.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 7,206,805 B1 to McLaughlin, Jr.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdulhakim Nobahar whose telephone number is 571-272-3808. The examiner can normally be reached on M-T 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Abdulhakim Nobahar  
Examiner  
Art Unit 2132 *a.m.*

October 11, 2007

*Gilberto Barron Jr.*  
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